

1 DAVID P. MASTAGNI, ESQ. (SBN 57721)
DAVID E. MASTAGNI, ESQ. (SBN 204244)
2 WILL M. YAMADA, ESQ. (SBN 226669)
JAMES R. TRABER, ESQ. (SBN 248439)
3 **MASTAGNI, HOLSTEDT, AMICK,**
MILLER, JOHNSEN & UHRHAMMER
4 *A Professional Corporation*
1912 "I" Street
5 Sacramento, California 95814
Telephone: (916) 446-4692
6 Facsimile: (916) 447-4614

7 Attorneys for Plaintiffs

8
9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 DANIEL J. MITCHELL, acting for himself)
12 and others similarly situated,)

13 Plaintiffs,)

14 v.)

15 COUNTY OF MONTEREY,)

16 Defendant.)
17)
18)
19)
20)

Case No.: C 08-01166 JW

**STIPULATION AND [PROPOSED]
ORDER TO EXTEND PLAINTIFFS' AND
COUNTER-DEFENDANTS' TIME TO
RESPOND TO
COUNTERCLAIMS AND TO A FILE
MOTION TO STRIKE AFFIRMATIVE
DEFENSES TO THE ANSWER**

Judge: Hon. James Ware

21 **STIPULATION**

22 The parties to the above captioned action respectfully submit this stipulation and request as follows:

23 1. The Plaintiffs Dan Mitchell et al., filed the above entitled action against the
County of Monterey on February 27, 2008.

24 2. The County of Monterey filed an answer and Counter Claim to the action on
25 March 19, 2008.

26 3. The County of Monterey has named the Deputy Sheriffs' Association of
27 Monterey County as a Counter Defendant along with all the named Plaintiffs.
28

1 4. An issue has arisen over the fact that the Summons for the Counter-Defendant, Deputy
2 Sheriffs Association of Monterey County, was just issued on April 8, 2008 and that it has not yet been
3 served upon this new party counter-defendant in this action, and that there are issues relating to the
4 effectiveness of the service by mail of the counterclaims by the Defendant Monterey County upon the
5 attorneys for the Plaintiffs, Dan Mitchell et al, without an agreement to accept service on behalf of this
6 new party pursuant to FRCP, Rule 4(d).

7 5. The parties are currently negotiating to have service on behalf of this new party counter-
8 defendant be effectuated by a waiver of service of summons under FRCP, Rule 4(d), which would give
9 this new party counter-defendant 60 days to respond to the allegation contained in the counterclaims.

10 6. The parties are also engaging in a meet and confer process regarding the issues relating
11 to the striking the Defendant's fifth, seventh, eleventh, fourteenth, fifteenth, sixteenth, seventeenth, and
12 eighteenth affirmative defenses asserted in Defendant County of Monterey's Answer to the Complaint,
13 previously served by mail on March 19, 2008.

14 7. In lieu of the foregoing, the parties hereby stipulate and respectfully request that the
15 Court grant the Plaintiffs an extension of time until June 10, 2008, in which to file a Motion to Strike
16 the Defendant's affirmative defenses asserted in Defendant County of Monterey's Answer to the
17 Complaint, previously served by mail on March 19, 2008.

18 8. In lieu of the foregoing, the parties also hereby stipulate and respectfully request that
19 the Court grant the Plaintiffs an extension of time until June 10, 2008, in which to file a responsive
20 pleading to the Counter-Claims contained in the Defendant County of Monterey's Answer to the
21 Complaint, previously served by mail on March 19, 2008.

22 9. Good cause exists to grant the continuance because it would save the Parties and the
23 Court resources and time if the Parties can resolve the foregoing issues informally.

24 RESPECTFULLY SUBMITTED.
25
26
27
28

1 Dated: April 11, 2008

**MASTAGNI, HOLSTEDT, AMICK,
MILLER, JOHNSEN & UHRHAMMER**

2
3 By: /s/ Will M. Yamada
4 WILL M. YAMADA
5 Attorneys for Plaintiffs/Counter Defendants
Dan Mitchell, et al.

6 Dated: April 11, 2008

7 By: /s/ William K. Rentz
8 WILLIAM K. RENTZ
9 Sr. Deputy County Counsel
10 Attorney for Defendant/Counter-Claimant
11 County of Monterey
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

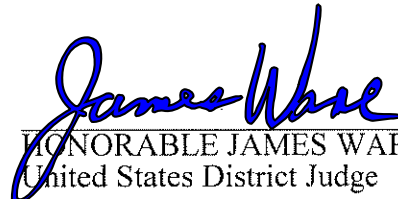
~~PROPOSED~~ ORDER

GOOD CAUSE APPEARING AND THE PARTIES HAVING STIPULATED,

IT IS HEREBY ORDERED that the Plaintiffs and Counter-Defendants, Dan Mitchell et al., including the Deputy Sheriffs' Association of Monterey County, shall have up to and including June 10, 2008, in which to file a responsive pleading to the counterclaims contained in the answer filed on March 19, 2008 by the Defendant, County of Monterey.

IT IS FURTHER ORDERED that the Plaintiffs, Dan Mitchell et al, shall have up to and including June 10, 2008 in which to file a Motion to Strike the Defendant's fifth, seventh, eleventh, fourteenth, fifteenth, sixteenth, seventeenth, and eighteenth affirmative defenses asserted in Defendant County of Monterey's Answer to the Complaint, previously served by mail on March 19, 2008. IT IS SO ORDERED.

Dated: April 18, 2008


HONORABLE JAMES WARE
United States District Judge